

**STATE OF SOUTH CAROLINA**

(Caption of Case)

**Application of Duke Energy Carolinas, LLC for  
Approval of Energy Efficiency Plan Including an  
Energy Efficiency Rider and Portfolio of Energy  
Efficiency Programs**

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**COVER SHEET****DOCKET****NUMBER: 2007 - 358 - E**

(Please type or print)

**Submitted by:** Jeremy C. Hodges**SC Bar Number:** 71123**Address:** Nelson Mullins**Telephone:** 803-255-97661320 Main St., Meridian 17<sup>th</sup> Floor**Fax:** 803-255-9164Columbia, SC 29201**Other:** \_\_\_\_\_**Email:** jeremy.hodges@nelsonmullins.com

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**DOCKETING INFORMATION** (Check all that apply)

- ☐ **Emergency Relief demanded in petition**      ☐ **Request for item to be placed on Commission's Agenda expeditiously**
- ☐ **Other:** \_\_\_\_\_

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certificatio
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2007-358-E**

In re:	)	
Application of Duke Energy Carolinas, LLC	)	
For Approval of Energy Efficiency Plan	)	<b>JOINT MOTION FOR APPROVAL</b>
Including an Energy Efficiency Rider and	)	<b>OF PARTIAL SETTLEMENT AND</b>
Portfolio of Energy Efficiency Programs	)	<b>ADOPTION OF SETTLEMENT</b>
	)	<b>AGREEMENT</b>
	)	
	)	

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Duke Energy Carolinas, LLC ("Duke Energy Carolinas"), the South Carolina Office of Regulatory Staff ("ORS"), and Piedmont Natural Gas Company, Inc. ("Piedmont") (collectively "the Parties"), pursuant to S.C. Regs. 103-829 and other applicable statutes, rules and regulations, hereby file this Joint Motion seeking approval of a partial settlement ("Settlement") in the above-captioned proceeding. In support of this Joint Motion, the Parties provide the following information:

1. On September 28, 2007, Duke Energy Carolinas filed an Application requesting approval of (1) a new regulatory approach to energy efficiency programs, (2) an energy efficiency rider to implement the energy efficiency plan, and (3) a portfolio of energy efficiency programs. The Application was filed pursuant to S.C. Code Ann. Sections 58-27-820, 58-27-870, and 58-37-20. ORS is a party of record in this proceeding pursuant to 58-4-10(B). Piedmont filed a petition to intervene in this docket on November 9, 2007 and is a party to this proceeding.

2. Duke Energy Carolinas has previously filed direct and rebuttal testimony and Piedmont has filed direct and surrebuttal testimony, all in accordance with the schedule established by the Commission in this proceeding. In its testimony, Piedmont has supported some aspects of Duke Energy Carolinas' Save-A-Watt proposals but has raised issues with other aspects of the Save-A-Watt program ("Piedmont Issues"). In its testimony, Piedmont has also recommended certain relief to the Commission to mitigate its concerns. In its testimony, Duke Energy Carolinas has indicated its disagreement with Piedmont's positions and its opposition to the relief recommended by Piedmont. No other party has filed testimony regarding the Piedmont Issues.

3. Following extensive discussions concerning the Piedmont Issues, Duke Energy Carolinas and Piedmont have determined that their interests, and ORS has determined that the public interest, would best be served by stipulating to a settlement of the Piedmont Issues for purposes of the immediate proceeding and the hearing scheduled to begin in this matter on February 5, 2008. This settlement, which is fundamentally procedural in nature, provides for the implementation of a discussion process involving Duke Energy Carolinas, Piedmont, and the ORS, to determine if the Piedmont Issues can be resolved amicably, in the public interest, and consistent with applicable state and federal laws. The agreement detailing the terms and conditions of such settlement ("Settlement Agreement") is attached hereto as Exhibit A. The basis and rationale for the Settlement is set forth in the Settlement Agreement itself and, accordingly, no settlement testimony is filed herewith; however, witnesses for both Duke Energy Carolinas and Piedmont will be available at the hearing of this matter to answer any questions the Commission or other parties may have about the Settlement.

4. Currently, the hearing in this matter is scheduled for February 5 and 6, 2008. The Parties jointly move the Commission to commence the hearing as scheduled on February 5, 2008 and to permit Duke Energy Carolinas and Piedmont, subject to the right of the Commission and non-settling intervenors to question witnesses for both parties, to stipulate into the record those parts of their respective witnesses' testimony addressing the Piedmont Issues. The Parties further propose that they be allowed to publish a summary of the proposed settlement at the outset of the hearing and that they be permitted to designate and have available witnesses ready to testify regarding the Settlement if the Commission or non-settling parties have questions pertaining thereto.

5. The Parties further move that the Commission approve the Settlement Agreement as being in the public interest.

WHEREFORE, the undersigned Parties respectfully request that the Commission allow the hearing procedures set forth herein and as described in the Settlement Agreement and issue an order approving the Settlement as just, fair and reasonable.

Dated this 1st day of February, 2008.

WE SO MOVE:

Attorneys for Duke Energy Carolinas, LLC




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## **EXHIBIT A**

### **SETTLEMENT AGREEMENT**

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2007-358-E**  
**February 1, 2008**

In re:	)	
Application of Duke Energy Carolinas, LLC	)	
For Approval of Energy Efficiency Plan	)	<b>SETTLEMENT AGREEMENT</b>
Including an Energy Efficiency Rider and	)	
Portfolio of Energy Efficiency Programs	)	
	)	

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This Settlement Agreement (the “Settlement Agreement”) is made by and among the South Carolina Office of Regulatory Staff (“ORS”), Duke Energy Carolinas, LLC (“Duke Energy Carolinas”), and Piedmont Natural Gas Company, Inc. (“Piedmont”) (collectively referred to as the “Parties” or sometimes individually as a “Party”).

**RECITALS**

**WHEREAS**, the above-captioned proceeding has been established by the Public Service Commission of South Carolina (“Commission”) pursuant to S.C. Code Ann. § 58-37-20, and the Parties to this Settlement Agreement are parties of record in the above-captioned docket;

**WHEREAS**, Piedmont has raised certain concerns with aspects of Duke Energy Carolinas’ Save-A-Watt proposals in this docket as reflected in Piedmont’s filed testimony (“Piedmont Issues”) and has recommended certain relief to the Commission with respect thereto;

**WHEREAS**, Duke Energy Carolinas disputes the Piedmont Issues and opposes the relief sought by Piedmont in its testimony as reflected in Duke Energy Carolinas' filed testimony;

**WHEREAS**, the Parties have engaged in discussions to determine if a settlement of the Piedmont Issues would be in their best interests;

**NOW THEREFORE**, following those discussions, the Parties have each determined that their interests and the public interest would be best served by settling the Piedmont Issues in the above-captioned case under the terms and conditions set forth below:

#### **AGREEMENT**

1. The Parties agree to support this settlement in the evidence they submit to the Commission in this proceeding and Duke Energy Carolinas and Piedmont each further agree to make one or more witnesses available at the hearing of this matter to testify in support hereof.

2. As a compromise of the respective positions of Duke Energy Carolinas and Piedmont with respect to the Piedmont Issues, Duke Energy Carolinas, ORS, and Piedmont agree as follows:

A. Piedmont hereby withdraws its opposition to approval by the Public Service Commission of South Carolina of Duke Energy Carolinas' comprehensive Save-A-Watt program proposal filed in Docket No. 2007-358-E, as amended by the partial settlement filed on January 29, 2008, subject to Piedmont's right to oppose subsequent individual Save-A-Watt program tariff filings as described below.



B. Piedmont, Duke Energy Carolinas, and ORS, under the auspices of this Settlement Agreement, agree to promptly initiate and participate in good faith in a discussion process to and until June 1, 2008, in which the Parties will address the Piedmont Issues and other related matters and attempt to reach agreement about ways to resolve those issues consistent with the public interest and applicable state and federal laws.

C. During the period of the discussion process described above, Duke Energy Carolinas shall not implement or propose to implement any individual measure or program component under its Save-A-Watt proposal which has the potential to displace or replace natural gas usage or natural gas appliances or otherwise promote electricity usage over natural gas usage.

D. Except to the extent the Parties agree otherwise as a result of the discussion process, any Save-A-Watt measures or program components that have the potential to displace or replace natural gas usage and/or natural gas appliances, or otherwise promote electricity usage over natural gas usage, shall be filed with the Commission, after the end of the discussion process period identified above, in the form of individual tariff filings and shall be subject to a hearing process prior to approval wherein all of the rights of the Parties, including Piedmont's right to challenge any such program or component on its merits and for any reason, shall be preserved.

E. The Parties agree to propose to the Commission that the pre-filed testimony of their respective witnesses, if any, relating to the Piedmont Issues, be stipulated into the record in this proceeding, subject to the rights of the Commission and other parties to examine those witnesses

F. The Parties agree to waive cross-examination of each other's witnesses at the hearing of this matter (but reserve the right to conduct redirect examination of their own witnesses in response to questions by the Commission or other parties).

3. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair and reasonable resolution of the Piedmont Issues for purposes of the hearing of this matter scheduled for February 5, 2008. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

4. This written Settlement Agreement contains the complete agreement of the Parties. The Parties agree that by signing this Settlement Agreement, it does not constrain, inhibit or otherwise impair their arguments or positions in future proceedings, including future individual measure or program component tariff filings under the Save-A-Watt program. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement without penalty, within five days of receiving notice of the decision, by providing written notice of withdrawal via electronic mail to all parties in that time period.

5. This Settlement Agreement shall be effective upon execution of the Parties and shall be interpreted according to South Carolina law.

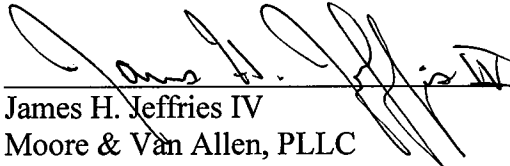
6. This Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities),

subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

7. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the Settlement Agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

(Signature Pages Follow)

Representing and binding Piedmont Natural Gas Company, Inc.:



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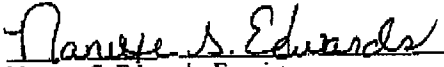


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Representing and binding the Office of Regulatory Staff:

A handwritten signature in cursive script, reading "Nancette S. Edwards". The signature is written in dark ink and is positioned above the printed contact information.

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the attached *Joint Motion for Approval of Partial Settlement and Adoption of Settlement Agreement* is being served this date via email upon:

Nanette S. Edwards  
Office of Regulatory Staff  
1441 Main Street  
Suite 300  
Columbia, South Carolina 29201  
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And that a copy of the attached *Joint Motion for Approval of Partial Settlement and Adoption of Settlement Agreement* is being served this date via email and U.S. Mail upon:

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This the 1st day of February, 2008.

s/ James H. Jeffries IV  
James H. Jeffries IV